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EXAMINER ZURITA, JAMES II				
ART UNIT 3625		PAPER NUMBER		
NOTIFICATION DATE 02/04/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary

Application No.

10/743,348

Applicant(s)

RAIYANI ET AL.

Examiner

JAMES ZURITA

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-16, 18-20, 32-34, 36-38, 40-42 and 44-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-16, 18-20, 32-34, 36-38, 40-42 and 44-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

On 12/23/2003, applicant filed the instant application with claims 1-31.

On 06/14/2007, applicant cancelled claims 1-13, 22-31 and added claims 32-47.

On 11/21/2007, applicant cancelled claims 17, 35 and 43. Applicant amended independent claims 14, 32, 40.

Response to Amendment

On 08/14/2008, applicant cancelled claims 21, 38 and 47. Applicant amended claims 14, 32 and 40.

Remaining claims 14-16, 18-20, 32-34, 36-38, 40-42 and 44-46 will be examined.

Response to Arguments

Applicant's arguments filed 08/14/2008 have been fully considered but they are not persuasive.

Applicant argues,

Nothing in Jelen discloses or teaches "a plurality of modalities," much less "receiving the first customer request in a selected input modality chosen from any of a plurality of input modalities associated with the electronic device available for data entry into the first field, the plurality of input modalities including a microphone, a bar code scanner, a keyboard, and a stylus, wherein the product identifier is either spoken into the microphone, scanned with the bar code scanner, entered using the keyboard, or entered using the stylus; determining sales information responsive to the customer request; [and] associating the sales information with each of the plurality of input modalities by expressing the sales information in each of a plurality of formats, wherein each of the plurality of formats is associated with one of the plurality of input modalities."

In response to these arguments, the Examiner respectfully notes that applicant's "input modalities" can include a web page with HTML content (see Applicants' spec.

page 57, lines 5-11), keyboard, buttons or mouse (see Applicants' spec page 66, line 31-32). Jerel discloses the use of keyboards, as in Fig. 17 and related text.

Claim 14 requires that a customer use an input modality chosen from among any of ...[list]...wherein the product identifier is entered via the keyboard (Fig. 17, for example). The limitations are met by Jelen, as in Fig. 17 and related text.

As per claims 19, 37 and 45, Applicant purports to traverse the Examiner's Official Notice:

Applicants respectfully traverse the Examiner's official notice that it is old and well known in the art to use VXML for data entry. Under MPEP § 2144.03(A), official notice, may only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. See MPEP § 2144.03(A). More to the point, an Examiner is prohibited from taking official notice of facts without citing a reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. See id....

...In the instant case, Applicants respectfully assert that the feature of receiving a voice input, and wherein the first page is associated with Voice Extensible Markup Language (VXML) is not capable of instant and unquestionable demonstration...

In response, a "traverse" is a denial of an opposing party's allegations of fact.¹

The Examiner respectfully submits that applicants' arguments and comments do not appear to traverse what Examiner regards as knowledge that would have been generally available to one of ordinary skill in the art at the time the invention was made. Even if one were to interpret applicants' arguments and comments as constituting a traverse, applicants' arguments and comments do not appear to constitute an adequate traverse because applicant has not specifically pointed out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. 27 CFR 1.104(d)(2), MPEP 706.07(a).

An adequate traverse must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying Examiner's notice of what is well known to one of ordinary skill in the art. In re Boon, 439 F.2d 724, 728, 169 USPQ 231, 234 (CCPA1971).

If applicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). MPEP 2144.03 Reliance on Common Knowledge in the Art or "Well Known" Prior Art. In view of applicant's failure to adequately traverse official notice, the following are admitted prior art: it was old and well known in the art at the time of applicant's invention to use VXML for data entry.

Applicant further argues:

Having failed to locate this feature after either conducting an exhaustive reference search or reviewing the Applicants' disclosed references, Applicants respectfully assert that these features are ineligible for office notice, and further request that the Examiner provide documentary evidence if the rejection is to be maintained. See MPEP § 2133.03(C).

In response, the Examiner respectfully directs applicant's attention to VXML in several of the prior art references submitted by applicant on 08/26/2004:

2001/0049603	12/06/2001	Sravanapudi et al.	Para 0059
6,501,832	12/31/2002	Saylor et al.	Col. 2, lines 4-16

¹ Definition of Traverse, Black's Law Dictionary, "In common law pleading, a traverse signifies a denial."

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims have been rejected 14-16, 18, 20-21, 32-34, 36, 38, 39-42, 44, 46 and 47 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,129,276 to Jelen et al. ("Jelen").

As per claim 14, Jelen discloses computer implemented method(s) comprising:

outputting a first page for display on an electronic device, the first page including a first field for receiving a first customer request, the first customer request including a product identifier; (col. 8, lines 53- 66; Figure 7; col. 7, lines 44-46; col. 9, lines 22-28; Figure 11);

receiving the first customer request in a selected input modality chosen from among any of a plurality of input modalities associated with the electronic device available for data entry into the first field, See, for example, at least Fig. 17 and related text, showing a keyboard. See also col. 4, lines 26-30; col. 8, lines 60-66; Figure 7; col. 9, lines 6-9; col. 13, lines 39-59; Figure 11; Abstract, lines 5-11);

the plurality of input modalities including a microphone, a bar code scanner, a keyboard (See, for example, Fig. 17 and related text), and a stylus,

wherein the product identifier is either spoken into the microphone, scanned with the bar code scanner, entered using the keyboard (Fig. 17 and related text, for example), or entered using the stylus;

determining sales information responsive to the customer request; see, for example, at least col. 5, lines 11-40;

associating the sales information with each of the plurality of input modalities expressing the sales information in each of a plurality of formats, wherein each of the plurality of formats is associated with one of the plurality of input modalities; (See, for example, at least (col. 9, line 35-38; col. 10, lines 48-65):

outputting a second page for display on the electronic device, the second page displaying the sales information and including a second field for receiving a second customer request in any one of the plurality of input modalities. See, for example, at least (col. 5, lines 40-44; col. 9, lines 39-55; col. 10, lines 48-65).

As per claim 15: Jelen teaches that the first request comprises a request for product information associated with a product for sale, including price and description information (col. 5, lines 40-42; col. 10, lines 48-65).

As per claim 16: Jelen teaches receiving the second customer request including a purchase request associated with financial transaction information; and completing a sale of the product, based on the financial transaction information (Fig. 16).

As per claim 18: Jelen teaches that the electronic device includes a mobile device (Title; col. 3, lines 50-54; Fig. 21).

As per claim 20: Jelen teaches that the first customer request comprises receiving text input, and wherein the first page is associated with HTML (col. 8, lines 53-66; Fig. 7; col. 7, lines 44-46; col. 9, lines 22-28; Fig. 11).

As per claim 21: Jelen teaches associating the sales information with each of the plurality of input modalities comprises expressing the sales information in each of a plurality of formats, wherein each of the plurality of formats is associated with one of the plurality of input modalities (col. 10, lines 48-65).

Claims 32 and 40 are rejected on the same grounds as claim 14.

claims 33 and 41 are rejected on the same grounds as claim 15.

claims 34 and 42 are rejected on the same grounds as claim 16.

claims 36 and 44 are rejected on the same grounds as claim 18.

claims 38 and 46 are rejected on the same grounds as claim 20.

claims 39 and 47 are rejected on the same grounds as claim 21.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 19, 37, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jelen et al. (US 6,129,276) ("Jelen") in view of admitted prior art, previously Officially Noticed.

As per claim 19: Jelen teaches all the limitations of claim 14 as noted above. Jelen does not teach that the first page is associated with VXML. However, as admitted prior art, previously Official Noticed, it was old and well known in the art at the time of applicant's invention to use VXML for data entry. Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate

these features into Jelen. One of ordinary skill in the art would have been motivated to do so in order to provide a user with a user- friendly and hands-free way of entering data and because the incorporation of such features is no more than the predictable use of prior art elements according to their established function and Combining prior art elements according to known methods yield only predictable results.

claims 37 and 45 are rejected under the same rationale as set forth above in claim 19.

Alternatively, Claims 19, 37, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jelen et al. (US 6,129,276) ("Jelen") in view of Sravanapudi et al, US PG-PUB 2001/0049603, published 12/06/2001, paragraph 0059, and further in view of Saylor et al., US 6501832, issued 12/31/2002, as in Col. 2, lines 4-16. See IDS of 08/26/2004.

As per claim 19: Jelen teaches all the limitations of claim 14 as noted above. Jelen does not teach that the first page is associated with VXML. This is taught both by Sravanapudi et al, US PG-PUB 2001/0049603, published 12/06/2001, paragraph 0059, for example and by Saylor et al., US 6501832, issued 12/31/2002, as in Col. 2, lines 4-16.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made to combine Jelen with Sravanapudi and Saylor to disclose associating the first page with VXML.

One of ordinary skill in the art would have been motivated to do so in order to provide a user with a user- friendly and hands-free way of entering data and because

the incorporation of such features is no more than the predictable use of prior art elements according to their established function and Combining prior art elements according to known methods yield only predictable results.

claims 37 and 45 are rejected under the same rationale as set forth above in claim 19.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES ZURITA whose telephone number is (571)272-6766. The examiner can normally be reached on 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571)272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Zurita/
Primary Examiner
Art Unit 3625
31 January 2009